STATEMENT OF CONSIDERATION RELATING TO
907 KAR 15:020

Department for Medicaid Services
Amended After Comments

(1) A public hearing regarding 907 KAR 15:020 was not requested and; therefore, not held.

(2) The following individual submitted written comments regarding 907 KAR 15:020:

Name and Title	Organization/Agency/Other Entity
Kathy Adams, Director of Public Policy	The Children's Alliance
Lisa Jagnow	Department for Behavioral Health, Developmental and Intellectual Disabilities, (DBHDID), Office of Mental Health and Substance Use Services
Natalie Kelly, Director	DBHDID, Division of Behavioral Health
Anne Marie Regan, Senior Staff Attorney	Kentucky Equal Justice Center

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 15:020:

Name and Title	Organization/Agency/Other Entity
Leslie Hoffmann, Director	Department for Medicaid Services, Division of Community Alternatives
Stuart Owen, Regulation Coordinator	Department for Medicaid Services

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Collateral Services

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance asked the following:

"What is meant by collateral services? Should this be defined in 907 KAR 15:005? Is collateral services referring to collateral outpatient therapy as described on page 19, line 12 or are there other types of collateral services that this is referring to?"

(b) Response: The Department for Medicaid Services (DMS) is revising the term in an "amended after comments" administrative regulation to "collateral **outpatient therapy**" from "collateral services".

(2) Subject: Licensed or Certified Behavioral Health Practitioner

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance noted that the phrase "licensed or certified behavioral health practitioner" is used in Section 3(2)(f)2.c.(iv) of the administrative regulation and that 907 KAR 15:005 defines "behavioral health practitioner under supervision" but does not define "behavioral health practitioner." Ms. Adams suggested that the phrase be defined in 907 KAR 15:005.

(b) Response: Via an "amended after comments" administrative regulation DMS is inserting a definition of "behavioral health practitioner" into 907 KAR 15:005.

(3) Subject: Behavioral Health Practitioner under Clinical Supervision

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance noted that the term "behavioral health practitioner working under clinical supervision" is used in Section 3(2)(f)2.c.(iv) but differs from the term "behavioral health practitioner under supervision" which is defined in 907 KAR 15:005. Ms. Adams noted that the term is only used in this lone instance in contrast to "behavioral health practitioner under supervision" which is used many times. Ms. Adams stated, "Recommend ensuring that in this instance, for day treatment services, that the behavioral health practitioner must be under clinical supervision to meet the Medicaid requirement to provide the service."

(b) Response: DMS agrees with the recommendation and the requirement will remain that the practitioner work under clinical supervision.

(4) Subject: Child Consumer

(a) Comment: Regarding the following language Kathy Adams, Director of Public Policy for the Children's Alliance stated, "Should the word 'child' be removed from this sentence?"

(g)1. Peer support services shall:
. . . .
d. Be provided by a self-identified consumer, parent, or family member:
(i) Of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health disorder services and substance use disorder services; and . . .

Ms. Adams asked that if it not be removed then should ". . . that section be reworded to ensure peer support services can be provided by an adult consumer or parent or family member of an adult consumer?"

(b) Response: The authorized peer support options, as stated in the associated state plan amendment, are a peer-to-peer option and an option for a parent or family member of a child with a mental health disorder, substance use disorder, or co-occurring disorders to provide peer support to a parent or family member of a child with a mental health disorder, substance use disorder, or co-occurring disorders. Via an "amended after comments" administrative regulation DMS is rewording the section as follows:

"(g)1. Peer support services shall:
a. Be **[~~social and~~]** emotional support that is provided by**:**
(i) An individual who **has been trained and certified in accordance with 902 KAR 2:220 and who** is experiencing **or has experienced** a mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders to a recipient by sharing a similar mental health disorder, substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change;
(ii) A parent who has been trained and certified in accordance with 902 KAR 2:230 of a child having a mental health, substance use, or co-occurring mental health and substance use disorder to a parent or family member of a child sharing a similar mental health, substance use, or co-occurring mental health and substance use disorder in order to bring about a desired social or personal change; or
(iii) A family member who has been trained and certified in accordance with 902 KAR 2:230 of a child having or who has had a mental health, substance use, or co-occurring mental health and substance use disorder to a parent or family member of a child sharing a similar mental health, substance use, or co-occurring mental health and substance use disorder in order to bring about a desired social or personal change;
b. Be an evidence-based practice;
c. Be structured and scheduled non-clinical therapeutic activities with an individual recipient or a group of recipients;
d. **[~~Be provided by a self-identified consumer , parent, or family member:~~**
~~(i) Of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health disorder services and substance use disorder services; and~~
~~(ii) Who has been trained and certified in accordance with 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240;~~
~~e.~~] Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient;
e.[~~f.~~] Be coordinated within the context of a comprehensive, individualized **[~~treatment~~]** plan **of care** developed through a person-centered planning process;
f.[~~g.~~] Be identified in each recipient's **[~~treatment~~]** plan **of care**; and
g.[~~h.~~] Be designed to directly contribute to the recipient's individualized goals as specified in the recipient's **[~~treatment~~]** plan **of care**."

(5) Subject: Third Party Contract

(a) Comment: As Section 4(6)(b) establishes that “a third party contract shall not be covered under this administrative regulation”, Kathy Adams, Director of Public Policy for the Children’s Alliance, asked if third party contract should be defined. Ms. Adams also asked the following:

“Does this prohibit a BHSO from contracting with qualified practitioners to provide services? Or does a BHSO have to ‘employ’ all the practitioners used in service provision?”

(b) Response: The requirement does not prohibit a BHSO from contracting with practitioners to provide services, but rather it establishes that the Department for Medicaid Services won’t pay for the contractual arrangement/terms (such as contractor’s salary and benefits). As required by federal regulation, the Medicaid program pays for services rendered to Medicaid recipients. A contract between an entity and practitioner is not a covered service; therefore, no federal funding is allowed to cover the contractual terms/arrangement. DMS will pay for Medicaid-covered services rendered by the practitioner but will not pay for the contractual arrangement/terms between the entity and the practitioner.

(6) Subject: Notes Recorded by a Practitioner Working under Supervision

(a) Comment: Kathy Adams, Director of Public Policy for the Children’s Alliance stated the following:

“This provision requires the supervising professional to co-sign and date the notes recorded by a practitioner working under supervision but the timeframe for the supervising professional to co-sign and date the notes is not specified. If CMS or DMS requires the supervising professional to co-sign the notes of the practitioner within a specified timeframe, it is recommended that this timeframe be added to this provision.”

(b) Response: Via an “amended after comments” administrative regulation DMS is inserting a requirement that the notes be signed by the supervising professional within thirty (30) days.

(7) Subject: Reference to Targeted Case Management

(a) Comment: Kathy Adams, Director of Public Policy for the Children’s Alliance noted that targeted case management is referenced on page 36 and questioned whether it should be defined or deleted.

(b) Response: The term was mistakenly used and is being replaced by “behavioral health service organization” via an “amended after comments” administrative regulation.

(8) Subject: Crisis Services and Telehealth

(a) Comment: Lisa Jagnow and Natalie Kelly of the Department for Behavioral Health,

Developmental and Intellectual Disabilities (DBHDID) recommended that the “direct contact” requirement be deleted from Section 1(2)(a) and be replaced with a requirement that the services be provided “face-to-face” as “face-to-face” includes Telehealth as a service delivery option.

(b) Response: “Direct contact” is referring to contact between the practitioner and recipient rather than contact between the practitioner and a third party. DMS is revising the definition of “face-to-face” in 907 KAR 15:005, Definitions for 907 KAR Chapter 15, by establishing that “face-to-face” includes Telehealth if authorized by the Medicaid Telehealth administrative regulation (907 KAR 3:170.) This is necessary as 907 KAR 3:170 establishes the services that can be delivered via Telehealth and not all services covered under 907 KAR 15:020 can be delivered via Telehealth.

(9) Subject: Therapeutic Rehabilitation Services and Licensed Behavior Analysts

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID recommended that Section 3(2)(l) be amended to include licensed behavior analysts as authorized providers.

(b) Response: The associated state plan amendment does not authorize licensed behavior analysts to provide therapeutic rehabilitation services; therefore, DMS is not revising the administrative regulation to authorize licensed behavior analysts to provide therapeutic rehabilitation services.

(10) Subject: Redundant Day Treatment Provisions

(a) Comment: Regarding Section 3(3)(f) – day treatment provisions, Lisa Jagnow and Natalie Kelly of DBHDID stated that “1(a) and 2(a) are redundant.”

(b) Response: In an “amended after comments” administrative regulation DMS is removing the redundant language in Section 3(3)(f)2a.

(11) Subject: Intensive Outpatient Program Service

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID stated the following:

“Section 3(2)(a) Line 20 – after ‘intensive outpatient program service’ delete ‘s’.

(b) Response: DMS is making the requested change via an “amended after comments” administrative regulation.

(12) Subject: Requirement for Peer Support to be an Evidence-based Practice

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID stated the following:

“Section 3(3)(g)1.b. Delete ‘b. Be an evidence-based practice.’ This directive is meaningless; law does not determine that practices are evidence-based. This term is

used 2-3 times in the regulation."

(b) Response: The corresponding state plan amendment states that peer support "is an evidence-based practice."

(13) Subject: Preservation as a Component of Peer Support Services

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID stated the following:

"Section 3(3)(g)1.e. Promoting 'preservation' may be a typo."

(b) Response: The language mirrors the language in the corresponding state plan amendment which states:

"Services should promote socialization, recovery, self-advocacy, preservation and enhancement of community living skills for the client."

(14) Subject: Bed Limit of Less than Seventeen

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID stated the following:

"Section 3(3)(n)2.a. Consider changing 'less than seventeen (17)' to 'sixteen (16) or fewer' since all IMD language is based on the number 16.

(b) Response: DMS is making the change as requested via an "amended after comments" administrative regulation. Additionally, DMS is revised the language regarding to comport with language in the state plan amendment (document reviewed by the Centers for Medicare and Medicaid Services.) The revised language reads as follows:

"2.**a. Except as established in clause b of this subparagraph,** the physical structure in which residential services for substance use disorders is provided shall:
(i)[a.] Have more than eight (8) but **sixteen (16) or fewer[~~less than seventeen (17)~~]** beds; and
(ii)[~~b.~~] Not be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate.
b. If every recipient receiving services in the physical structure is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in clause a of this subparagraph shall not apply."

(15) Subject: Qualified Mental Health Professional

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID noted that the term "qualified mental health professional" is not defined and asked DMS to consider adding a definition for it.

(b) Response: In an “amended after comments” administrative regulation DMS is replacing the term “qualified mental health professional” with “approved behavioral health services provider.” “Approved behavioral health services provider” is defined in 907 KAR 15:005 as follows:

“(2) ‘Approved behavioral health services provider’ means a provider that is:
(a) A physician;
(b) A psychiatrist;
(c) An advanced practice registered nurse;
(d) A physician assistant;
(e) A licensed psychologist;
(f) A licensed psychological practitioner;
(g) A licensed clinical social worker;
(h) A licensed professional clinical counselor;
(i) A licensed marriage and family therapist;
(j) A licensed psychological associate;
(k) A marriage and family therapy associate;
(l) A certified social worker;
(m) A licensed professional counselor associate;
(n) A licensed professional art therapist; or
(o) A licensed professional art therapist associate.”

(16) Subject: Treatment Plan/Plan of Care

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID stated the following:

“Section 6(7)(b) Insert ‘by recipient or representative’ after ‘by rendering practitioner’.”

(b) Response: DMS is making the change as requested. DMS is also revising several references in the administrative regulation to “treatment plan” to “plan of care” as “plan of care” is the correct term. Below is revised language to Section 6(7):

“(7)**[~~(a) The treatment plan of a recipient who continues to receive services shall be reviewed at least once every six (6) months.~~**
~~(b)~~] Any change to a recipient’s **[~~treatment~~]** plan **of care** shall be documented, signed, and dated by the rendering practitioner **and by the recipient or recipient’s representative**.”

Additionally, DMS is inserting plan of care requirements in concert with an amendment to 902 KAR 20:430, Facilities specifications, operation and services; behavioral health services organizations. 902 KAR 20:430 is the Cabinet for Health and Family Services Office of Inspector General’s administrative regulation that establishes licensure requirements for behavioral health services organizations.

The revised plan of care requirements result from communication involving staff with the Department for Medicaid Services; the Office of Inspector General; the Department for Behavioral Health, Developmental and Intellectual Disabilities; and a representative

from a behavioral health services organization. Following is the revised language in Section 1 of the "amended after comments" version of 907 KAR 15:020:

"(4) A service shall be:
(a) Stated in the recipient's **[~~treatment~~]** plan **of care**; and
(b) Provided in accordance with the recipient's **[~~treatment~~]** plan **of care**.
**(5)(a) A behavioral health services organization shall establish a plan of care for each recipient receiving services from a behavioral health services organization.
(b) A plan of care shall meet the plan of care requirements established in 902 KAR 40:030."**

(17) Subject: Transfer of Health Records

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID stated the following:

"Section 6(11) Records need to be transferred more quickly in cases of referral to residential crisis stabilization, psychiatric hospitalization, etc."

(b) Response: After further communication with staff from the Department for Behavioral Health, Developmental and Intellectual Disabilities, DMS is shortening the time frame (via an "amended after comments" administrative regulation) for a health record transfer to a residential crisis stabilization unit, psychiatric hospital, psychiatric distinct part unit in an acute care hospital, or acute care hospital to within forty-eight (48) hours.

(18) Subject: Certified Alcohol and Drug Counselors

(a) Comment: Anne Marie Regan, Senior Staff Attorney with the Kentucky Equal Justice Center stated, "For some services, behavioral health practitioners under the supervision of an alcohol and drug counselor are excluded." Ms. Regan then listed such services as including day treatment; mobile crisis; residential services for substance use disorders; individual/group/collateral outpatient therapy; service planning; and comprehensive community supports.

Ms. Regan then elaborated by stating the following:

"Day treatment is provided for a child under 21 with mental health, substance use, or co-occurring disorders who has a high risk of out of home treatment. This appears to be an expansion of the Impact Plus definition of severe behavioral health issue (not substance use disorder) with risk of institutionalization. Since day treatment is specifically intended to include substance use disorders, we do not understand why a practitioner under the supervision of an alcohol and drug counselor would not be an approved provider. And for all the services listed above, why are certified alcohol and drug counselors not included? Since the prevalence of co-occurring disorders is so high, and the intent is to provide behavioral health services that also include substance use disorders, this does not make sense to us."

Ms. Regan also stated, “For several services, a certified alcohol and drug counselor is included in list of approved providers. These services include: family therapy, assertive community treatment and therapeutic rehabilitation services. We do not understand why, for instance, family therapy can be conducted by a certified alcohol and drug counselor, but individual or group therapy cannot. If the main presenting problem is a substance use disorder, in some situations an alcohol or drug counselor might be the best provider.”

(b) Response: DMS (and sister agency the Department for Behavioral Health, Developmental and Intellectual Disabilities) worked with the Centers for Medicare and Medicaid Services in developing the policies related to the behavioral health expansion (of services as well as practitioners) and had to ensure that DMS did not create a situation where a given practitioner was authorized in administrative regulation to provide a service that is considered outside of the practitioner’s scope of practice as established in Kentucky law. The prior state plan amendment approved by the federal agency – the Centers for Medicare and Medicaid Services (CMS) – did not authorize certified alcohol and drug counselors to provide the services referenced in the comments. However, DMS and DBHDID have subsequently reexamined the issue and submitted a revised state plan amendment to CMS which expands the services a CADC can render as well as allows CADCs to supervise peer support specialists.

A key requirement is that a service rendered by a CADC or supervised by a CADC must be rendered to a recipient who has a substance use disorder (rather than solely a mental health disorder.

DMS is filing an “amended after comments” version of this administrative regulation which adds an assessment, individual outpatient therapy, group outpatient therapy, family outpatient therapy, and collateral outpatient therapy to the services that a CADC can render. Additionally, the amended after comments administrative regulation authorizes CADCs to supervise peer support specialists. Additionally, the amended after comments administrative regulation clarifies that a CADC can only render or supervise a service provided to a recipient who has a substance use disorder (including a co-occurring substance use disorder and mental health disorder.)

(c) Comment: Anne Marie Regan, Senior Staff Attorney with the Kentucky Equal Justice Center also stated the following regarding CADCs:

“For other services, there is no mention of alcohol and drug counselors as approved providers. These services include: screening, brief intervention and referral for substance use disorder treatment. Again, why are they excluded?”

(d) Response: There is a companion administrative regulation – 907 KAR 15:005, Definitions for 907 KAR Chapter 15 – which defines the term “behavioral health practitioner under supervision.” The term includes certified alcohol and drug counselors; thus, anywhere that behavioral health practitioner under supervision is stated as an authorized practitioner for a service in this administrative regulation the

authorized practitioners include certified alcohol and drug counselors unless stated to the contrary. The service “screening, brief intervention and referral to treatment for a substance use disorder” may be provided by a “behavioral health practitioner under supervision except for a licensed assistant behavior analyst” as established in Section 3(2)(i) of the administrative regulation.

(19) Subject: Residential Services for Substance Use Disorders

(a) Comment: Anne Marie Regan, Senior Staff Attorney with the Kentucky Equal Justice Center stated, “The regulation also outlines two categories of residential services for substance use disorders. Short term is defined as less than 30 days, with at least 15 hours per week of structured treatment. Long term is defined as between 30 and 90 days, with at least 40 hours per week of structured treatment. If an individual is in a residential treatment, why is there a distinction between how many hours of structured treatment per week are required? To us, 15 hours of treatment per week in a residential facility doesn't seem like enough.”

(b) Response: The reason behind fewer hours initially is because some individuals may still be experiencing the effects of detoxification and not be in an ideal frame of mind to undergo forty (40) hours of structured treatment initially.

(20) Subject: Additional Limits and Non-Covered Services or Activities

(a) Comment: Regarding Section 4(2) and (3) of the administrative regulation, Anne Marie Regan, Senior Staff Attorney with the Kentucky Equal Justice Center stated the following:

“Subsection (2) and (3) outline services that cannot be billed or reimbursed for the same day of service when an individual is receiving residential services for substance use disorders or assertive community treatment. For example, in a residential treatment, a provider cannot bill for both psychiatric services and peer support. What is the rationale for that? If you are in a residential treatment or assertive community treatment, it seems to us that you would be receiving multiple services per day.”

(b) Response: The list of services that cannot be billed on the same day as residential services for substance use disorders are components of residential services for substance use disorders and were factored into the department’s per diem reimbursement for residential services for substance use disorders. The services can be provided, but in this scenario are provided as components of residential services for substance use disorders.

(c) Comment: In addition to the above comments, Anne Marie Regan, Senior Staff Attorney with the Kentucky Equal Justice Center stated the following:

“In addition, for residential services for substance use disorders, why would individual and group outpatient therapy be included in the list of services? Wouldn’t these services

occur in the residential placement?"

(d) Response: Individual outpatient therapy and group outpatient therapy are components of residential services for substance use disorders and were factored into the department's per diem reimbursement for residential services for substance use disorders. The therapies can be provided, but in this scenario are provided as components of residential services for substance use disorders.

(22) Subject: Typographical Errors

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID identified the following typographical errors:

Section 3(3)(f)2.b.(iii) Delete 'development' insert 'developmental'.
Section 3(3)(g)2.b. Add 'KAR' to 908 2:230 and 908 2:240."

(b) Response: DMS is making the requested changes via an "amended after comments" administrative regulation.

(23) Subject: Multi-family Group Therapy Clarification

(a) Comment and (b) Response: Via an "amended after comments" administrative regulation DMS is clarifying that multi-family group therapy groups do include individuals who are related. Following is the revised language:

"(j)1. Group outpatient therapy shall:
a. Be a behavioral health therapeutic intervention provided in accordance with a recipient's identified treatment plan;
b. Be provided to promote the:
(i) Health and wellbeing of the individual; and
(ii) Recovery from a substance use disorder, mental health disorder, or co-occurring mental health and substance use disorders;
c. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;
d. Be provided to a recipient in a group setting:
(i) Of nonrelated individuals **except for multi-family group therapy**; and."

(24) Subject: Continuous Nursing Clarification

(a) Comment and (b) Response: Via an "amended after comments" administrative regulation DMS is clarifying what constitutes continuous nursing (which is required for behavioral health service organizations that provide residential services for substance use disorders. Following is the revised language:

"(n)1. Residential services for substance use disorders shall:
. . .

f. Provide continuous nursing services **in which a registered nurse shall be:**
(i) On-site during traditional first shift hours, Monday through Friday;
(ii) Continuously available by phone after hours; and
(iii) On-site as needed in follow-up to telephone consultation after hours;"

(25) Subject: Mobile Crisis Services Clarification

(a) Comment and (b) Response: Via an "amended after comments" administrative regulation DMS is revising the mobile crisis services' provisions to comport with the revised language in the state plan amendment (document reviewed by the Centers for Medicare and Medicaid Services.) Following is the revised language:

"(e) Mobile crisis services shall:
1. Be available twenty-four (24) hours a day, seven (7) days a week, every day of the year;
2. Be provided for a duration of less than twenty-four (24) hours;
3. Not be an overnight service; **[~~and~~]**
4. Be a **multi-disciplinary team based intervention[~~crisis response~~]** in a home or community setting **that ensures [~~to provide an immediate evaluation, triage, and~~** access to **mental health and substance use disorder[~~ behavioral health~~]** services **~~including treatment~~]** and supports to:
(i) Reduce symptoms or harm; or
(ii) Safely transition an individual in an acute crisis to the appropriate least restrictive level of care**;**
5. Involve all services and supports necessary to provide:
a. Integrated crisis prevention;
b. Assessment and disposition;
c. Intervention;
d. Continuity of care recommendations; and
e. Follow-up services; and
6. Be provided face-to-face in a home or community setting."

SUMMARY OF STATEMENT OF CONSIDERATION
AND
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 15:020 and is amending the administrative regulation as follows:

Page 2
Section 1(2)(a)
Line 3
After "except for", delete "a".
After "collateral", insert "outpatient therapy".
Delete "service".

Line 4
After “collateral”, insert “outpatient therapy”.
Delete “service”.

Page 2
Section 1(4)(a)
Line 10
After “recipient’s”, delete “treatment”.
After “plan”, insert “of care”.

Page 2
Section 1(4)(b)
Line 11
After “recipient’s”, delete “treatment”.
After “plan”, insert “of care”.

After the period, insert a return and the following:
(5)(a) A behavioral health services organization shall establish a plan of care for each recipient receiving services from a behavioral health services organization.
(b) A plan of care shall meet the plan of care requirements established in 902 KAR 20:430.

Page 3
Section 3(2)(a)
Line 20
After “program”, insert “service”.
Delete “services.”

Page 4
Section 3(2)(b)11.
Line 21
After “supervision”, delete the following:
except for a certified alcohol and drug counselor

Page 5
Section 3(2)(d)11.
Line 18
After “of”, insert a colon, a return, and “a.”.

Line 19
After “provider;”, insert the following:
or
b. A certified alcohol and drug counselor;

Page 5
Section 3(2)(e)

Line 21
After “of”, insert a colon, a return, and “1.”.

After “provider;”, insert the following:
or
2. A certified alcohol and drug counselor;

Page 6
Section 3(2)(f)11.
Line 11
After “supervision”, delete the following:
except for a certified alcohol and drug counselor

Page 6
Section 3(2)(g)10. and Section 3(2)(g)10.a.,
Line 23 and
Page 7
Line 1
After “for a”, delete the colon, delete the return, and delete “a.”.

Page 7
Section 3(2)(g)10.a. and 3(2)(g)10.b.
Lines 1 and 2
After “analyst”, delete the following:
; or
b. Certified alcohol and drug counselor

Page 12
Section 3(3)(e)3.
Line 3
After “service;”, delete “and”.

Page 12
Section 3(3)(e)4.
Line 4
After “Be a”, insert the following:
multi-disciplinary team based intervention
Delete “crisis response”.

After “setting”, insert “that ensures”.
Delete the following:
to provide an immediate evaluation, triage, and

Line 5
After “access to”, insert the following:
mental health and substance use disorder

Delete “behavioral health”.

After “services”, delete “including treatment”.

Page 5
Section 3(3)(e)4.(ii)
Line 9
After “care”, insert the following:
:
5. Involve all services and supports necessary to provide:
a. Integrated crisis prevention;
b. Assessment and disposition;
c. Intervention;
d. Continuity of care recommendations; and
e. Follow-up services; and
6. Be provided face-to-face in a home or community setting

Page 12
Section 3(3)(f)2.a.
Line 17
After “services”, delete the following:
for an individual with a substance use disorder, mental health disorder, or co-occurring mental health and substance use disorders

Page 12
Section 3(3)(f)2.b.(iii)
Line 23
After “and”, insert “developmental”.
Delete “development”.

Page 13
Section 3(3)(f)2.c.(iii)
Line 10
After “plan”, insert “or Section 504 plan”.

Line 11
After “plan”, insert “or Section 504 plan”.

Page 14
Section 3(3)(g)1.a.
Line 2
After “Be”, delete “social and”.
After “by”, insert a colon, a return, and “(i)”.
After “who”, insert the following:
has been trained and certified in accordance with 908 KAR 2:220 and who

Line 3
After “experiencing”, insert “or has experienced”.

Line 6
After “change;”, insert the following:
(ii) A parent who has been trained and certified in accordance with 908 KAR 2:230 of a child having or who has had a mental health, substance use, or co-occurring mental health and substance use disorder to a parent or family member of a child sharing a similar mental health, substance use, or co-occurring mental health and substance use disorder in order to bring about a desired social or personal change; or
(iii) A family member who has been trained and certified in accordance with 908 KAR 2:230 of a child having or who has had a mental health, substance use, or co-occurring mental health and substance use disorder to a parent or family member of a child sharing a similar mental health, substance use, or co-occurring mental health and substance use disorder in order to bring about a desired social or personal change;

Page 14
Section 3(3)(g)1.d. and e.
Lines 10 to 16
After “d.”, delete clause d in its entirety and delete the notation “e.”.

Page 14
Section 3(3)(g)1.f.
Line 18
Renumber this clause by inserting “e.” and by deleting “f.”.
After “individualized”, delete “treatment”.
After “plan”, insert “of care”.

Page 14
Section 3(3)(g)1.g.
Line 20
Renumber this clause by inserting “f.” and by deleting “g.”.
After “recipient’s”, delete “treatment”.
After “plan”, insert “of care”.

Page 14
Section 3(3)(g)1.h.
Line 21
Renumber this clause by inserting “g.” and by deleting “h.”.

Line 22
After “recipient’s”, delete “treatment”.
After “plan”, insert “of care”.

Page 15
Section 3(3)(g)2.b.
Line 6
After “KAR 2:220, 908”, insert “KAR”.
After “KAR 2:230, 908”, insert “KAR”.

Page 15
Section 3(3)(g)2.c.
Line 7
After “provider”, insert the following:
or certified alcohol and drug counselor

Page 17
Section 3(3)(i)2.b.
Line 9
After “identified”, delete “treatment”.
After “plan”, insert “of care”.

Page 17
Section 3(3)(j)1.a.
Line 17
After “identified”, delete “treatment”.
After “plan”, insert “of care”.

Page 17
Section 3(3)(j)1.c.
Line 23
After “identified”, delete “treatment”.
After “plan”, insert “of care”.

Page 18
Section 3(3)(j)1.d.(i)
Line 2
After “individuals”, insert the following:
except for multi-family group therapy

Page 18
Section 3(3)(j)1.e.
Line 5
After “recipient’s”, delete “treatment”.
After “plan”, insert “of care”.

Page 19
Section 3(3)(l)1.a.(ii)
Line 17
After “recipient’s”, delete “treatment”.

After “plan”, insert “of care”.

Page 20
Section 3(3)(m)1.a.
Line 3
After “of”, insert “the effects of”.

After “health”, insert “disorder”.
Delete “disability”.

Page 21
Section 3(3)(n)1.f.
Line 2
After “services”, insert the following:
in which a registered nurse shall be:
(i) On-site during traditional first shift hours, Monday through Friday;
(ii) Continuously available by phone after hours; and
(iii) On-site as needed in follow-up to telephone consultation after hours

Page 21
Section 3(3)(n)2.
Line 12
After “2.”, insert the following:
a. Except as established in clause b of this subparagraph,

Page 21
Section 3(3)(n)2.a.
Line 14
Renumber this clause by inserting “(i)” and by deleting “a.”.

After “but”, insert “sixteen (16) or fewer”.
Delete “less than seventeen (17)”.

Page 21
Section 3(3)(n)2.b.
Line 15
Renumber this clause by inserting “(ii)” and by deleting “b.”.

Line 16
After “aggregate.”, insert a return and the following:
b. If every recipient receiving services in the physical structure is under the age of twenty-one (21) years or over the age of sixty-five (65) years, the limit of sixteen (16) beds established in clause a of this subparagraph shall not apply.

Page 24
Section 3(3)(p)3.a.(i)

Line 21
After “by”, insert the following:
an approved behavioral health services provider
Delete the following:
a qualified mental health professional

Page 25
Section 3(3)(q)1.b.
Line 18
After “recipient’s”, delete “treatment”.
After “plan”, insert “of care”.

Page 26
Section 3(3)(r)1.b.
Line 14
After “of”, insert “the effects of”.

After “health”, insert “disorder”.
Delete “disability”.

Page 27
Section 3(4) and (5)
Lines 4 to 9
After “(4)”, delete the remainder of subsection (4) in its entirety and delete the notation “(5)”.

Page 27
Section 3(6) and (7)
Lines 11 and 14
Renumber these two (2) subsections by inserting “(5)” and “(6)”, respectively, and
By deleting “(6)” and “(7)”, respectively.

Page 30
Section 4(6)(a)
Line 2
After “regulation”, insert the following:
except as established in Section 3(l)1

Page 30
Section 6(2)(b)
Line 21
After “service”, insert the following:
except as established in subsection (5)(a) of this section

Page 31
Section 6(3)(a)2.b.

Line 23
After “performed;”, insert “and”.

Page 32
Section 6(3)(a)2.c. and d.
Lines 1 to 3
After “performed;”, delete the following:
and
d. Six (6) month review of a recipient’s treatment plan each time a six (6) month review occurs;

Page 33
Section 6(5)(a)2.c.
Line 6
After “the”, delete “treatment”.
After “plan”, insert “of care”.

Page 33
Section 6(5)(c)1.
Line 13
After “professional”, insert “within thirty (30) days”.

Page 34
Section 6(7)(a) and (b)
Lines 4 to 6
After “(7)”, delete paragraph (a) in its entirety and delete the notation “(b)”.

Page 34
Section 6(7)(b)
Line 6
After “recipient’s”, delete “treatment”.
After “plan”, insert “of care”.

Line 7
After “practitioner”, insert the following:
and by the recipient or recipient’s representative

Page 35
Section 6(9)(a)2.a.
Line 3
After “individual’s”, delete “treatment”.
After “plan”, insert “of care”.

Page 35
Section 6(11)
Line 11

After “(11)”, insert the following:

(a) Except as established in paragraph (b) of this subsection,

Page 35
Section 6(11)(a)1.
Line 16

Renumber this paragraph by inserting “1.a.” and by deleting “(a)1.”.

Page 35
Section 6(11)(a)2. and 3.
Lines 17 and 18

Renumber these two (2) subparagraphs by inserting “b.” and “c.”, respectively, and by deleting “2.” and “3.” respectively.

Page 35
Section 6(11)(b)1.
Line 19

Renumber this paragraph by inserting “2.a.” and by deleting “(b)1.”.

Page 35
Section 6(11)(b)2.
Line 20

Renumber this subparagraph by inserting “b. and by deleting “2.”.

After “42 C.F.R. Part 2.”, insert a return and the following:

(b) If a recipient is transferred or referred to a residential crisis stabilization unit, a psychiatric hospital, a psychiatric distinct part unit in an acute care hospital, or an acute care hospital for care or treatment the transferring behavioral health services organization shall within forty-eight (48) hours of the transfer or referral transfer the recipient’s records in a manner that complies with the records’ use and disclosure requirements as established in or required by:

1.a. The Health Insurance Portability and Accountability Act;
b. 42 U.S.C. 1320d-2 to 1320d-8; and
c. 45 C.F.R. Parts 160 and 164; or
2.a. 42 U.S.C. 290 ee-3; and
b. 42 C.F.R Part 2.

Page 36
Section 6(13)(a)
Line 8

After “a”, insert “behavioral health”.

Delete “targeted case management”.

Line 9

After “service”, insert “organization”.